

FILED
06 OCT 13 AM 8:30
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
PR
DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER STEVENS, SR.,
CDC #V-69054,

Plaintiff,

vs.

COUNSELOR ROBLES,

Defendant.

Civil No. 06-2072 LAB (LSP)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE FOR
FAILING TO PAY FILING FEES
PURSUANT TO 28 U.S.C. § 1914(a)
AND/OR MOVE TO PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

Christopher Stevens, Sr., ("Plaintiff"), a state inmate currently incarcerated at Chuckawalla State Prison in Blythe, California and proceeding pro se, has filed a civil rights Complaint pursuant to 42 U.S.C. § 1983.¹

I. Failure to Pay Filing Fee or Request IFP Status

Effective April 9, 2006, all parties instituting any civil action, suit or proceeding in a district court of the United States, other than a writ of habeas corpus, must pay a filing fee of \$350. See 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay only if the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a). See *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

¹ **Referral to Magistrate Judge per Local Civil Rule 72.3.** This case has been referred to the Honorable Leo S. Papas, Magistrate Judge, pursuant to Local Rule 72.3, "Assignment of § 1983 Prisoner Civil Cases to United States Magistrate Judges" and 28 U.S.C. § 636(b)(1).

Here, Plaintiff has neither prepaid the \$350 filing fee required to commence this action, nor has he submitted a Motion to Proceed IFP. Therefore, this action is subject to immediate dismissal pursuant to 28 U.S.C. § 1914(a).²

II. Conclusion and Order

For the reasons set forth above, the Court hereby:

(1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$350 filing fee or file a Motion to Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a); and

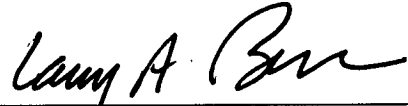
(2) **GRANTS** Plaintiff forty-five (45) days leave from the date this Order is "Filed" to: (a) prepay the entire \$350 civil filing fee in full; *or* (b) complete and file the attached "Motion and Declaration in Support of Motion to Proceed *In Forma Pauperis*."

If Plaintiff fails to either prepay the \$350 civil filing fee or complete and submit the attached Motion to Proceed IFP within that time, this action shall remain dismissed without prejudice and without further Order of the Court.

(3) The Clerk of the Court is directed to mail a copy of a form "Motion and Declaration in Support of Motion to Proceed *In Forma Pauperis*" to Plaintiff.

IT IS SO ORDERED.

DATED: 10-12-06


HON. LARRY ALAN BURNS
United States District Judge

² Plaintiff has attached his Inmate Trust Account Statement to his Complaint. Accordingly, it is not necessary for Plaintiff to resubmit this document.